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June 4, 1996

JUN 4 1996

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: PR Docket No. ~~89-552~~ RM-8506, *Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service, Second Memorandum Opinion and Order and Third Notice of Proposed Rulemaking - Ex Parte Presentation of SMR Advisory Group, L.C.*

Dear Mr. Caton:

On May 16, 1996, representatives of Motorola met with Jackie Chorney of the Office of the Chairman regarding the FCC's proposed new rules to govern the 220 MHz band. In the Ex Parte letter filed with the FCC that same day, Motorola declared its support for the FCC's proposal to reorder the 220 MHz band into contiguous frequencies, and indicated that if the FCC adopted the new rules as proposed, it would "begin providing 220 MHz radio products which would result in [] more equipment choices for users."

As a manager of up to ninety (90) systems licensed under Phase I who also plans to bid in the upcoming auction for Phase II 220 MHz licenses, SMR Advisory Group, L.C. ("SMR Advisory") strongly opposes the proposed reallocation of the 220 MHz band. As indicated in numerous meetings at the Commission attended by representatives of the existing 220 MHz industry (including the trade association for the industry, the American Mobile Telecommunications Association), the FCC's proposal to replace the existing frequency allocation plan with contiguous frequency blocks would be devastating to existing 220 MHz operators and would adversely affect potential auction winners as well. Incumbent Phase I licensees looking to expand existing operations by bidding in the auction would find their existing frequencies spread over multiple Economic Area frequency blocks. Phase II auction winners, for their part, would be required to protect five different incumbents within a given Economic Area rather than a single incumbent with the same frequency allocation. As a result, the auction winner actually would have less total white space within which to build its Phase II system.

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SMR Advisory, along with other 220 MHz industry representatives (including AMTA), has proposed that the Commission retain the Phase I frequency allocation plan where the frequencies were non-contiguous under that plan, i.e., the twenty non-nationwide 5-channel allocations. Because these frequencies are non-contiguous, of course, they cannot be aggregated for wider bandwidth technologies. In order to accommodate wider bandwidth technologies, however, those frequencies that were allocated in contiguous blocks under Phase I (or any other frequencies in the upper 100 channel grouping) can be licensed in contiguous blocks in Phase II and aggregated. This compromise would not harm the interests of existing licensees, while still providing some opportunity for potential new entrants seeking to deploy wider bandwidth technologies in the 220 MHz band (to the extent such entrants are interested in the small amount of overall spectrum at issue here).

The FCC should not be swayed by Motorola's suggestion that it would enter the equipment market only if the FCC adopted a frequency plan based on contiguous frequencies. Motorola offers no support for its assertion that the 220 MHz band is "technically isolated" from the 150 MHz and 450 MHz private land mobile bands, nor does it justify why it would be "unable to realize significant economies of scale in 220 MHz product development" without the ability to aggregate contiguous channels. The Commission should not credence these bare assertions without further substantiation, and certainly should not adopt its rules based on such sparse evidence. The proposal to reallocate all Phase II frequencies into contiguous channel blocks essentially would subordinate the interests of an entire existing industry to the interests of a manufacturer providing only vague promises of market entry and unknown market entrants who may or may not be interested in the overall small spectrum allocation that is the 220 MHz band. While SMR Advisory supports increased competition in the 220 MHz equipment market - and indeed has supported the ability to aggregate frequencies in the upper 100 channels which are already contiguous -- the reallocation of the entire 220 MHz band into contiguous frequency blocks is far too great a price for the addition of one more manufacturer into that market. SMR Advisory believes that the ability to aggregate the upper 100 channels only should provide sufficient "incentive" for Motorola to enter the 220 MHz equipment market, while still acknowledging and protecting those business entities who already have invested substantial sums, time and effort into the development of Phase I 220 MHz systems.

For these reasons, SMR Advisory urges the Commission to revise its proposed rules to retain the existing spacing of frequencies for those licensed blocks that are not currently contiguous. If there are any questions regarding this filing, please contact the undersigned.

Hunter & Mow, P.C.

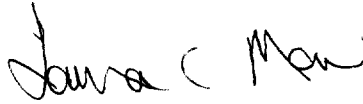
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In accordance with Section 1.206(a)(2) of the Commission's Rules, 47 C.F.R. §1.1206(a)(2), the original and two copies of this letter are being filed with the Acting Secretary of the Commission.

Sincerely,

A handwritten signature in black ink, appearing to read "Laura C. Mow". The signature is fluid and cursive, with the first name "Laura" being more prominent than the last name "Mow".

Laura C. Mow

Counsel for SMR Advisory Group, L.C.

cc: Jacki Chorney
David Siddell
Rudolfo M. Baca
Suzanne Toller
Michele Farquhar
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